IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SECOND DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO: 22178 of 2004

Between:

M/s. Devi Construction, Rep. by Ch. Sobha Devi,
W/o. Tirupathi Rao, aged about 51 Years, R/o. 1-248/4, Allapur

Cooperative Housing Society,
Kukatpally, Ranga Reddy District.

... PETITIONER

AND

The Commissioner, Kukatpally Municipality, Ranga Reddy District.

...RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, more particularly one in the nature Writ of Mandamus declaring the action of the respondent issuing the impugned notice Dt.4-10-2004 directing the petitioner to stop the construction work, forthwith and further action of the respondent directing the petitioner to submit explanation along with relevant documents within 3 days otherwise demolishing the construction is illegal, arbitrary and violative of Art.14 and 21 of the Constitution of India and violative of principles of natural justice and consequently to direct the respondent not to take steps for demolishing the building in Plot No.11 and 11A in Sy.No.52 and 54 part, situated at Allapur Cooperative Housing Society Limited, Phase -II, Kukatpally, Hydernagar Village, Balanagar Mandal, Ranga Reddy District in pursuance of the impugned notice Dt. 4-10-2004.

Counsel for the Petitioner: MR.K.V.RAJENDRA PRASAD

Counsel for the Respondents: MR.THIMMA REDDY

The Court, at the admission stage, made the following:

ORDER:

Petitioner's grievance, in the present writ petition, is that a show cause notice dated 04-10-2004 under Section 217 (1) & (2) of the Andhra Pradesh Municipalities Act, 1996 (for short 'the Act'), was issued by the respondent – Municipality, which was served, according to him, presumably, on 30-11-2004, alleging that petitioner is making construction in violation of the sanctioned plan dated
03-07-2004.

2. Heard the learned counsel for the petitioner as well as the learned standing counsel, and with their consent, the writ petition itself is being disposed of finally at the stage of admission.

3. It is submitted by the learned counsel for the petitioner, that petitioner has completed only first floor of the building and that he has not deviated from the sanction plan. It is further submitted that in the impugned show cause notice dated 4-10-04, three days time was given to submit explanation to the same, whereas respondent has served the notice on the petitioner only on 30-11-2004 and, therefore, the petitioner could not submit his explanation.

4. Having regard to the fact that impugned show cause notice was served on the petitioner, only on 30-11-2004, petitioner is hereby directed to submit his explanation to the said show cause notice on or before 09-12-2004 and the respondent is at liberty to consider the same and pass appropriate orders thereafter.

5. In the meanwhile, the respondent is at liberty to prevent the petitioner from making any further construction in violation of the sanctioned plan.

The writ petition is accordingly disposed of at the stage of admission.

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N. V. RAMANA, J

December 2, 2004

NOTE: *Furnish copy tomorrow*

(B/o)

MRR

To:

1. The Commissioner, Kukatpally Municipality, Ranga Reddy

District.

2. Two C.D. Copies.